



MEDICAL BOARD OF CALIFORNIA

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Medical Board of California

Sheraton Suites
Ovations Room
701 A Street
San Diego, CA 92101

November 2 - 3, 2006

MINUTES

Agenda Item 1 Call to Order/Roll Call

Mr. Alexander called the meeting to order on November 2, 2006 at 4:17 p.m. A quorum was present and notice had been sent to interested parties.

Members Present:

Steve Alexander, President
Cesar Aristeiguieta, M.D.
James A. Bolton, Ph.D.
Hedy Chang
John Chin, M.D.
Steven Corday, M.D.
Shelton Duruisseau, Ph.D.
Richard D. Fantozzi, M.D.
Laurie C. Gregg, M.D.
Mitchell S. Karlan, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Ronald L. Moy, M.D.
Janet Salomonson, M.D.
Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan

Members Absent:

Gary Gitnick, M.D.

Staff Present:

David T. Thornton, Executive Director
Kimberly Kirchmeyer, Deputy Director
Don Chang, Staff Counsel, DCA Legal Office
Candis Cohen, Public Information Officer
Janie Corday, Research Specialist
Ana Facio, Deputy Chief, Enforcement Program
Valerie Moore, Associate Analyst, Enforcement Program
Cindi Oseto, Analyst, Licensing Program
Kurt Heppler, Staff Counsel, DCA Legal Office
Kelly Nelson, Legislative Analyst
Richard Prouty, Manager, Discipline & Staff Services Unit
Gary Qualset, Chief of Licensing
Regina Rao, Business Services
Paulette Romero, Associate Analyst
Teresa Schaeffer, Executive Assistant
Kevin Schunke, Regulation Coordinator
Anita Scuri, Senior Staff Counsel, DCA Legal Office
Lynda Swenson, Supervising Investigator II, Probation Unit
Renee Threadgill, Interim Chief of Enforcement
Frank Valine, Diversion Program Administrator
Linda K. Whitney, Chief of Legislation
Curt Worden, Manager, Licensing Section

Members of the Audience:

Steve Boreman, Office of the Attorney General
Sandra Bressler, California Medical Association
Zennie Coughlin, Kaiser Permanente
Frank Cuny, California Citizen's for Health Freedom
Julie D'Angelo Fellmeth, Center for Public Interest Law
Faith Gibson, California College of Midwives
Steve Hartzell, Physical Therapy Board of California
James Hay, M.D., California Medical Association
William Norcross, M.D., PACE Program
Judy Okun
Frank Lucido, M.D.
Tim Madden, California Society of Plastic Surgeons
Anmol Mahal, M.D., California Medical Association
Robert Puleo, Division of Legislative & Regulatory Review, DCA
Carlos Ramirez, Office of the Attorney General
Gabrielle Rodriguez
Antonette Sorrick, Deputy Director, DCA
Charlene Zettel, Director, DCA

Agenda Item 2 Introduction and Swearing In New Board Members

Mr. Alexander officially welcomed and swore-in the newly appointed board members Drs. Chin, Low, Salomonson and Mr. Zerunyan.

Agenda Item 3 Approval of Minutes from June 8, 2006 & July 27 - 28, 2006 Meeting

It was m/Moy, s/Bolton, c/all to approve the minutes from the June 8, 2006 and July 27 – 28, 2006 meeting.

Agenda Item 4 Election to Fill Vacant Board Officer Position(s)

Mr. Alexander called for nominations for the vacant position of Vice President resulting from members' terms expiring. Dr. Moy nominated Richard Fantozzi, M.D. and Dr. Wender seconded the motion. There being no other nominations, Dr. Fantozzi was elected Vice President of the Medical Board by acclamation.

Mr. Alexander called for nominations for the position of Secretary vacated by Dr. Fantozzi. Dr. Aristeiguieta nominated Ronald Moy, M.D. and Dr. Karlan moved the nominations be closed. There being no other nominations, Dr. Moy was elected Secretary of the Medical Board by acclamation.

Agenda Item 5 President's Report

A. Communications from Interested Parties

Mr. Alexander disclosed the following meetings:

Sharp Hospital Physician Group in San Diego
California Society of Dermatologists Society (with Dave Thornton)
President of the California Medical Association (CMA); upcoming on December 1, 2006.
Dental Board member
San Diego District Attorney's Office (with Dave Thornton).

B. Office Tours

Mr. Alexander deferred discussion on this issue until the end of his report.

C. Medical Errors Task Force

Mr. Alexander established a Medical Errors Task Force. Dr. Aristeiguieta will chair the task force.

D. Board Meeting Evaluations

Mr. Alexander reminded members to complete and return the meeting evaluation form.

E. Executive Committee Actions and Report

Mr. Alexander reported the committee met on September 5, 2006 and discussed plans for the board retreat and strategic planning session to be held early March 2007.

F. Media and Outreach Communications

Mr. Alexander reported on the following events:

- The Medical Board made the Top Ten List in the nation on Public Citizen's ranking of medical board Web sites.
- He met with the County Court Clerks Association in San Francisco with Dave Thornton.
- He participated in a series of interviews regarding medicinal marijuana. The DMQ was directed to re-examine this issue.

G. Board Member Appreciation Day

Mr. Alexander attended the Governor's Board Member Appreciation Day held on October 3, 2006 in Sacramento (with Richard Fantozzi, M.D.).

Mr. Alexander reported on his tour of all the district offices and the results. A work group was established to provide assistance with implementing the new prosecution model. The members of the work group include: Dr. Fantozzi, Dr. Aristeiguieta, Mr. Thornton, Ms. Threadgill, Ms. Whitney, Mr. Ramirez. They will seek the assistance of Tom Papageorge. The mission of the task force is to assess program success and identify key areas that are working and areas that need improvement.

The working group will work with staff and the management team established by the Attorney General's office and the MBC Executive Director to provide guidance, support and policy direction for implementation of changes to achieve the mission.

Agenda Item 6 Executive Director's Report

A. Budget Overview and Staffing Update

Mr. Thornton provided the following update:

Gary Qualset, the new Chief of Licensing was introduced. The Chief of Enforcement position remains vacant. Dr. Aristeiguieta volunteered to assist in the interviewing and selection process. Renee Threadgill continues to serve as the Interim Chief.

Mr. Thornton reported the final figures for the 2005/2006 expenditures showed a significant salary savings, which has created a healthy three month reserve. The current board expenditures appear to be consistent with projections.

He reminded members SB 231 required the board to eliminate cost recovery but allowed a revenue neutral portion of the bill to offsite any loss. It is anticipated the licensing fees will increase from \$790 to \$805 effective January 1, 2007.

B. Meeting Survey and Rating Sheet

See Agenda Item 5D.

C. Update on Headquarters' Move

Mr. Thornton reported the headquarters' move has been delayed to September 2007.

D. Board Retreat and Strategic Planning Update

March 1- 2, 2007 was selected for the Board Retreat and Strategic Planning meeting in San Diego. A hard copy of the 2002 Strategic Plan was distributed to the members. The members on committee are Drs. Ron Moy and Gary Gitnick.

E. Meeting Minutes Format Changes

Mr. Thornton advised the format for the meeting minutes will be revised to capture information on action items taken during the meeting.

Agenda Item 7 Legislation Update

Ms. Whitney reported on the following seven board sponsored bills:

AB 1796 (Bermudez) Authorizes the board to establish advisory committees, requires an applicant to obtain a passing score on the USMLE Step 3 within four attempts, requires an applicant to wait three years before reapplying for licensure, allows the DOL to obtain probation monitoring costs and waives the fee for a physician and surgeon's voluntary license for practitioners residing in California only.

Mr. Robert Puleo addressed the board and discussed the administration's concerns regarding the four attempt limit for passing the USMLE Step 3. Staff will work with the Department to craft appropriate language to address the Governor's concerns.

AB 2198 (Houston) Revises the pain management laws to facilitate the treatment of pain and changes "good faith prior exam" to "appropriate exam."

AB 2260 (McLeod) Revises language for the special fellow and faulty programs and adds a "no gag clause" provision.

SB 1232 (Runner) Revises the reciprocity provisions.

SB 1438 (Figueroa) Requires physicians to report all misdemeanor convictions, and the board will post to the Web site only those which result in an accusation that has not been withdrawn or dismissed or in disciplinary action.

SB 1638 (Figueroa) Requires the board to create a Midwifery Advisory Council and requires the annual reporting of birth outcomes by licensed midwives.

SB 1851 (Ortiz) Requires a physician, upon diagnosis of breast cancer, to provide the patient with the summary of alternative efficacious treatment.

Ms. Whitney provided the following update on other bills affecting the board:

AB 2342 (Nakanishi) Requires the board with the Health Professions Education Foundation to study the issue of providing malpractice insurance for volunteer physicians.

SB 438 (Migden) Allows oral and maxillofacial surgeons, licensed as dentists, to perform elective cosmetic surgery. The Dental Board has solicited recommendations from the board regarding an appointment to the credentialing committee. *Mr. Alexander directed this matter to the Executive Committee for further consideration.*

SB 1423 (Figueroa) requires the board with the Board of Registered Nurses to conduct a study on laser procedures.

SB 1475 (Figueroa) Extends for one year, the provision authorizing a physician to obtain a permit, from the Dental Board to provide anesthesia in a dental office.

Ms. Whitney presented the following concepts for legislative proposals for 2007.

- Vertical Prosecution (Pilot program expires July 1, 2008)
- Diversion Program (Sunset date July 1, 2008)
- Board Restructuring

Mr. Thornton advised he received an inquiry from the Governor's office regarding the following access to care questions:

Are there any statutory or regulatory changes the board could suggest to make the delivery of health care more efficient?

Are there any statutory or regulatory barriers for health care providers to diagnose or prescribe in a manner other than face-to-face?

Are there any statutory or regulatory barriers to health care providers posting their rates for specific services on the internet?

Are there any statutory or regulatory barriers to insurers or other entities providing software or hardware to health providers for e-prescribing or the sharing of data?

Agenda Item 8 Board Restructure

Mr. Alexander deferred this item to Friday, November 2, 2006.

Agenda Item 9 Pandemic Planning, Avian Bird Flu

William Norcross, M.D., UCSD School of Medicine provided a presentation on planning for pandemic influenza and prospects, and distributed a copy of two articles published in the Annals of Internal Medicine. He suggested the board's main role could be to assist physicians by having an effective communication system, possibly via the internet.

Dr. Aristeiguieta offered to make a presentation at the February 2007 meeting.

Agenda Item 10 Public Comment

Tim Madden strongly encouraged the members to consider making a recommendation to the Dental Board for the credentialing committee.

Director Charlene Zettel commended the board for their public service for protecting consumers.

The meeting adjourned at 5:35 p.m..

Friday, November 3, 2006

Agenda Item 11 Call to Order/Roll Call

Mr. Alexander called the meeting to order on November 3, 2006 at 11:30 a.m. A quorum was present and notice had been sent to interested parties.

Members Present:

Steve Alexander, President
Cesar Aristeiguieta, M.D.
James A. Bolton, Ph.D.
Hedy Chang
John Chin, M.D.
Steven Corday, M.D.
Shelton Duruisseau, Ph.D.
Richard D. Fantozzi, M.D.
Laurie C. Gregg, M.D.
Mitchell S. Karlan, M.D.

Reginald Low, M.D.
Mary Lynn Moran, M.D.
Ronald L. Moy, M.D.
Janet Salomonson, M.D.
Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan

Members Absent:

Gary Gitnick, M.D.

In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the November 2-3, 2006 meeting.

Agenda Item 8 Board Restructure

Mr. Alexander explained Governor Schwarzenegger addressed the issue of restructuring boards, bureaus and commissions throughout the state at the time of his election. A work group met with staff to exchange ideas and gather information. The board met to discuss those findings and recommendations. The proposed recommendation is to eliminate the two division structure and have a single board with standing committees.

Mr. Thornton presented two alternatives for the review of disciplinary decisions:

Alternative 1: *Leave the review process as is.*

Alternative 2: *The members would continue to review all proposed decisions from Administrative Law Judges (ALJ). The Executive Director would review all stipulations and default decisions. A disciplinary committee would review the work of the Executive Director to ensure he/she is following board policy and guidelines.*

Staff recommends Alternative 2 with elimination of the oral argument process.

Mr. Zerunyan supports elimination of the oral argument process.

Dr. Wender supports staff's recommendation.

Dr. Aristeiguieta, Barbara Yaroslavsky and Dr. Salomonson opposed limiting the board's role in disciplinary oversight. Dr. Aristeiguieta suggested a cost benefit analysis be completed to determine the work load of the members prior to making any decision on the appropriate size of the board.

Sandra Bressler supports the recommendation to accept the decision of the administrative law judge as final with an option to appeal to the Superior Court.

Julie Fellmeth supports eliminating the oral argument process.

Members tabled discussion on this issue pending review of further data and an external analysis.

Agenda Item 12 Reports from the Divisions/Committees

A. Division of Licensing

Dr. Fantozzi reported the following:

- A motion was approved to authorize staff to develop language regarding legislation to provide exemptions for taking the USMLE.
- A motion was approved to direct staff to review options for removing the board's role as a accrediting body and specialty board review while maintaining consumer protection against false advertising.
- Ms. Chang and Dr. Fantozzi were appointed to the Special Programs work group.
- A motion was approved to set a regulatory hearing to implement AB 2260.
- Dr. Gitnick and Dr. Fantozzi were appointed to the Stephen Thompson Physician Corp Loan Repayment Program Committee.
- Ms. Yaroslavsky and Dr. Fantozzi were appointed to the Volunteer Physician Program Committee.
- The Midwifery Committee met and discussed implementation of SB 1638. Staff will work with OSHPD and interested parties to devise a coding system of data elements to be completed by the first quarter of 2007.
- Special Programs work group met on November 1, 2006 and discussed implementation of AB 2260.

Dr. Fantozzi requested approval of the following legislative proposals:

- 1. To require a training license for post-graduate training in California.***
- 2. To obtain information on sexual harassment and misconduct from applicants at time of application.***

Dr. Wender expressed concern regarding the issue of post graduate licenses and the additional workload for staff.

Following discussion by the members, it was M/S/C to approve both proposals. Dr. Wender abstained from the motion.

B. Division of Medical Quality

Dr. Aristeiguieta reported on the following:

- Barbara Yaroslavsky was elected Vice President of the DMQ and Stephen Corday, M.D. was elected Secretary of the DMQ.
- Dr. Norcross made a presentation on the Physician Enhancement Program.

- Implementation of a pilot project to handle the review of decisions in an electronic format.
- An Ad Hoc Committee was established to explore the issues of medical errors. Ms. Yaroslavsky and Dr. Aristeiguieta were appointed.

Dr. Aristeiguieta requested approval of the following legislative proposals:

- 1. To add ambulatory surgical centers in risk-bearing organizations licensed under Health and Safety Code 1375.4 to the 805 reporting law.***
- 2. An omnibus bill to clean-up various sections of the enforcement statutes.***
- 3. To change the number of days to adopt decisions in Business and Professions Code Section 2335 from 90 to 100 days.***

It was M/S/C to approve the above proposals.

Dr. Aristeiguieta requested approval of the following non-legislative proposals:

- 1. Adoption of the Diversion Advisory Council concept.***
- 2. Adoption of criteria and qualifications for medical evaluators.***

It was M/S/C to approve the above proposals.

Dr. Aristeiguieta requested approval of a proposal to explore, with the Department of Personnel Administration, the creation of a new class of investigator to align pay with other departments in an effort to resolve the problem of staff retention.

It was M/S/C to approve the above proposal.

Agenda Item 13 Public Education Committee Report

Dr. Wender, Chair reported the committee discussed the following two issues:

- Should the board seek to amend Business and Professions Code section 2027 to increase disclosure of information in 805 reports.

The committee deferred action on this item pending the results of the two mandated studies being conducted on the peer review process and public disclosure.

- Should the board seek to require physicians to inform patients about the board.

Staff was directed to bring back non-costly, non-legislative proposals to the next meeting.

Agenda Item 14 Orientation on Open Meetings Act and Communications with Interested Parties

Ms. Scuri provided a brief overview of the Open Meetings Act.

Agenda Item 15 Federation of State Medical Boards (FSMB)

A. Update on 2007 Annual Meeting

Ms. Chang announced the FSMB's annual meeting will be held in San Francisco on May 3 – 5, 2007. She discussed the board hosting a California reception for the meeting.

B. Call for Nominations and Appointment Recommendations

A motion was made and seconded to nominate Dr. Fantozzi as a candidate for an elective office with the FSMB. The motion carried.

Agenda Item 16 Workgroup on Cultural and Linguistic Continuing Medical Education

Ms. Chang reported she and Dr. Duruisseau attended a workshop to develop plans for convening a work group to fulfill requirements of the Cultural and Linguistic Act. The ACCME and various academic centers will participate in the CME discussion at their next meeting.

Agenda Item 17 Health Manpower Pilot Project

Dr. Gregg explained Planned Parenthood, UCSF and Kaiser are working on a proposed pilot project which may increase access to care by allowing participants to bypass current laws and expand the scope of practice of allied health professions. This would allow nurse practitioners, certified nurse midwives and physician assistants to perform early pregnancy terminations and handling of miscarriages. The next meeting is scheduled for November 15, 2006.

Agenda Item 18 California Physician Corps Program

Ms. Yaroslavsky stated there was a delay in the transfer of the Stephen Thompson Loan Repayment Program to Health Professions Education Foundation due to staff vacancies. Board staff will continue to provide support until the foundation is prepared to manage the program.

Agenda Item 19 Agenda Items for February 2007 Meeting

- Invite Herb Schultz, the Governor's Health Policy Advisor to provide a presentation on the Governor's health care policy agenda.

- Reactivation of the Access to Care Committee.
- Medical marijuana policy/guidelines (DMQ to discuss and present to full board)

Mr. Alexander reported the Executive Committee met in closed session and discussed the annual evaluation and performance of the Executive Director. He reported Mr. Thornton will retire and executive search committee was appointed to initiate the process and find a replacement.

Agenda Item 19 Public Comment

Julie Fellmeth congratulated the board for cracking the Top-Ten list in the nation on Public Citizen's ranking of medical board web sites.

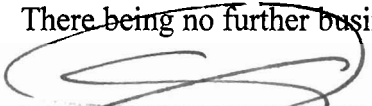
Judy Okun addressed the board regarding the Board's action in disciplining the physician responsible for her husband's death.

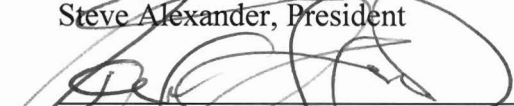
Gabriella Rodriguez, a patient and victim of medical malpractice made comments relating to the "code of silence" within the medical profession.


Janet Mitchell, addressed the board regarding the lawsuit she filed against a physician for willful, intentional, malicious medical fraud. She provided the members with a copy of her book, entitled "Taking a Stand".

Agenda Item 21 Adjournment

There being no further business the meeting adjourned at 1:40



Steve Alexander, President

Richard Fantozzi, M.D., Vice President

David T. Thornton, Executive Director



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DIVISION OF MEDICAL QUALITY

**Sheraton Suites
San Diego, CA**

November 3, 2006

MINUTES

Agenda Item 1

A quorum was present and due notice having been mailed to all interested parties, the meeting was called to order at 8:03 a.m. Members present included:

Members Present:

Cesar A. Aristeiguieta, M.D., President
Barbara Yaroslavsky, Secretary
Steve Alexander
John Chin, M.D.
Stephen R. Corday, M.D.
Shelton Duruisseau, Ph.D.
Reginald Low, M.D.
Mary L. Moran, M.D.
Ronald L. Moy, M.D.
Janet Salmonson, M.D.
Ronald H. Wender, M.D.
Frank V. Zerunyan

Members Absent:

Staff and Guests Present:

David T. Thornton, Executive Director
Renee Threadgill, Interim Chief of Enforcement
Ana Facio, Deputy Chief
Anita Scuri, DCA Legal Counsel
Kurt Heppler, DCA Legal Counsel
Don Chang, DCA Legal Counsel
Carlos Ramirez, Senior Assistant Attorney General
Thomas S. Lazar, Supervising Deputy Attorney General

Candis Cohen, Public Information Officer
Linda Whitney, Chief of Legislation
Kevin Schunke, Regulation Coordinator
Kelly Nelson, Legislative Analyst
Paulette Romero, Associate Analyst
Janie Cordray, Research Program Manager
Frank Valine, Diversion Program Manager
Richard Prouty, Staff Services Manager
Valerie Moore, Associate Analyst
Teresa Schaeffer, Associate Analyst
Laura Sweet, Area Supervisor - L.A. Metro
Lynda Swenson, Area Supervisor - Probation
Vickie Welch, Area Supervisor - Southern Area
Nancy Edwards, Supervising Investigator
Glenda Finley, Supervising Investigator
Kathleen Nicholls, Supervising Investigator
William A. Norcross, M.D., Director, Physician Assessment and Clinical Education Program
Carole Sussman, Ph.D., Physician Assessment and Clinical Education Program
Antonette Sorrick, Deputy Director, Department of Consumer Affairs, Board Relations
Robert Puleo, Assistant Deputy Director, Department of Consumer Affairs, Legislative and
Regulatory Review Division
Julie D'Angelo Fellmeth, Center for Public Interest Law
Sandra Bressler, California Medical Association
Zennie Coughlin, Kaiser
Frank Cuny
Frank Lucido, M.D.
Jeffrey Gray, M.D.
James Hay, M.D.
Sasha Kim, Consultant, Senate Office of Research

Agenda Item 2 Election to Fill Vacant Division Officer Positions

Dr. Wender moved to nominate Ms. Yaroslavsky for Vice President and Dr. Duruisseau seconded the motion. There being no other nominations, Ms. Yaroslavsky was elected Vice President of the Division of Medical Quality by acclamation.

Dr. Wender nominated Dr. Corday for Secretary and Mr. Alexander seconded the motion. There being no other nominations, Dr. Corday was elected Secretary of the Division of Medical Quality by acclamation.

Agenda Item 3 Approval of Orders

Approval of Orders Restoring License Following Completion of Probation

The Division reviewed and approved 14 Orders. Vote: 12-0

Approval of Orders Issuing Public Letters of Reprimand

The Division reviewed and approved 6 Orders. Vote 12-0

Approval of Orders for License Surrender During Probation/Administrative Action

The Division reviewed and approved 4 Orders. Vote 12-0

Agenda Item 4 Approval of Minutes

It was M/S (Wender/Moy) to approve the Open Session minutes of the July 28, 2006 Division Meeting. Motion carried (12-0).

Agenda Item 5 Legislation and Pending Regulations

Linda Whitney, Chief of Legislation, stated the 2006 Legislative Proposals were discussed at the full Board meeting on November 2, 2006. Ms. Whitney reported on the following Legislative Proposals for 2007:

- Adding ambulatory surgical centers and risk bearing organizations to those entities allowed to receive the 805 reports to ensure those entities are able to receive the necessary information to verify physicians are properly licensed;
- Omnibus clean up of various sections;
- Making Business and Professions Code section 2335 consistent with the Administrative Procedure Act (APA) by allowing a decision to be made within 100 days, not 90 days; and
- Revising the renewal form to require physicians to inform the Board of any hospital discipline or changes in their privileges, of any malpractice settlements over \$30,000 and having physicians certify they have advised the Board of any felonies, indictments, or misdemeanors from the last two years.

Ms. Whitney requested the DMQ's approval to move forward with the development of language for the proposals. It was M/S (Wender/Duruisseau) to allow staff to move forward with developing language for the legislative proposals. Motion carried unanimously.

Agenda Item 6 Diversion Program Report

Frank Valine, Diversion Program Administrator, provided an overview of the Diversion Committee's meeting held on November 2, 2006. Mr. Valine stated the proposed criteria standards for participant evaluators were discussed and approved with some limitations and wording changes to be implemented later. He stated the proposed concept for a Diversion Advisory Council (DAC) was also discussed, tentatively approved, and the Diversion Committee members and interested parties will meet prior to the next Board meeting to discuss the language changes.

Agenda Item 7 Vertical Prosecution Update

Renee Threadgill, Interim Chief of Enforcement, discussed staff recruitment and retention. She presented an option of establishing a new investigator series classification with the Department of Personnel Administration to address the pay and equity issues. She asked for DMQ approval

to move forward with the proposal.

It was M/S (Alexander/Wender) to direct staff to seek investigator reclassification in order to obtain pay equivalency to DOJ agents and pursue the most expedient path to obtain competitive compensation for the Medical Board investigators, working with the Department of Consumer Affairs to achieve the outcome of pay equivalency. The motion carried unanimously.

Ms. Threadgill reported on the current status of the VP Model and statistical data gathered thus far. She stated the Medical Board supervisors are continuing to work closely with their AG counterparts as new policies are being written and developed.

Carlos Ramirez, Senior Assistant Attorney General, commented although the statistical data is too small to be an accurate predictor of whether the VP Model is working, it is positive and obviously a team effort as a result of the new working relationship under SB231. He further provided an update on the AG's office latest developments in the VP Model.

Agenda Item 7B Medical Expert Program – Survey

Ms. Threadgill provided a brief overview of the current expert survey, which included the historical data the DMQ requested at the last Board meeting. She stated staff has been reassigned to develop and coordinate a recruitment training plan for experts statewide and a position has been identified and will be redirected to supplement the program during the development of the plan.

Agenda Item 8 Electronic Decisions

Dave Thornton, Executive Director, reported several meetings ago the DMQ discussed the possibility of electronically transmitting decisions to the panel members in order to access them online through a secure Web site. The members of the DMQ gave their approval to move forward with the process.

Agenda Item 9 Physician Enhancement Program

William A. Norcross, M.D., Director of the Physician Assessment and Clinical Education (PACE) Program, gave a detailed presentation to the DMQ on the Physician Enhancement Program (PEP Program). Dr. Norcross introduced Carole Sussman, who performs the day-to-day operations of case management and is working with Dr. Norcross to develop a new cutting-edge program to take the PEP Program to a higher level. He also introduced Scott Lavelle, who is the administrative leader and co-director of the PEP Program. He further introduced Brad Buchman, who is the faculty co-director of the PEP Program.

Dr. Norcross described the six core competencies physicians need, i.e., patient care, medical knowledge, practice-based learning and improvement, systems-based practice, professionalism, and interpersonal skills and communication. He also described the four levels of clinical performance and competency measurement of Miller's Pyramid, i.e., knows, knows how, shows how, and does.

Dr. Norcross discussed the results of the PACE Program's survey of monitoring programs from around the world. He stated the evaluation results consistently reflect approximately 10 to 15 percent of physicians have no serious deficiencies, approximately 75 to 85 percent have remediable deficiencies, but are still safe to practice, between zero and 5 percent of physicians have serious safety and competency issues, and approximately 80 percent of physicians would benefit from intensive education and practice improvement initiatives.

Dr. Norcross reported the PACE Program is in the process of establishing a UC systemwide network of physician monitors because the need for monitors is great and it is unlikely the PACE Program would be able to fill the entire need alone. He stated they are also developing a one-day program for physicians in good standing to attend and participate in to teach them about the methodologies and instruments used by the PEP Program, and work together to create a network to constantly improve the PEP system. Discussion ensued regarding cultural linguistic competency and sensitivity issues, how to expedite the implementation of the procedural competency program, the use of medical school simulators, prevention mechanisms, and specialty specific charging.

Dr. Aristeiguieta asked Dr. Norcross whether the Medical Board should interact with the Board of Regents to ask for their assistance on behalf of the PACE Program. Dr. Norcross stated he would welcome the Medical Board's assistance because the PEP Mentoring and Monitoring Program will work much better if it can be done with people from all of the UC campuses. Dr. Aristeiguieta stated the DMQ will carry the message forward.

Agenda Item 10 Practice Monitoring Condition

Ana Facio stated probation is ready to move forward with drafting language to revise the disciplinary guidelines to use the PACE PEP Program as a model for the Board's practice monitoring. She stated the draft language will include a provision to allow physicians to use the PACE PEP Program or an equivalent. She asked for the DMQ's approval. Discussion ensued regarding the cost incurred by physicians with the practice monitor condition, the availability of physicians who serve as practice monitors, and the training and qualifications needed to qualify as an equivalent to the PACE PEP Program.

Frank Cuny stated while he agrees with the concept, this may pose a problem for those physicians practicing in the Alternative Natural Fields because practice monitors primarily take the conventional allopathic approach to medicine. He offered to assist the Board in recruiting physicians from the alternative fields to serve in the role as practice monitors.

It was M/S (Wender/Alexander) to authorize staff to move forward with drafting language revising the disciplinary guidelines to include the use of the PACE PEP Program as the model for practice monitoring. Motion carried unanimously.

Ms. Facio stated the surgical task force, Dr. Moy and Ms. Yaroslavsky, requested similar language be presented regarding surgical competency. She stated she is also prepared to draft language and asked for the DMQ's permission to do so. It was M/S (Yaroslavsky/Wender) to permit staff to move forward with drafting language regarding surgical competency. Motion

carried unanimously.

Agenda Item 11 Agenda Items for February 2007 Division Meeting
Medical Error Reporting
Medical Marijuana Guidelines

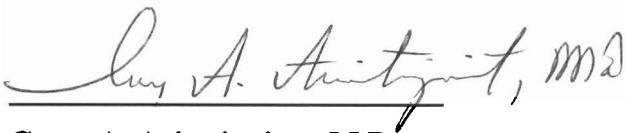
Agenda Item 12 Public Comment

Frank Lucido, M.D., expressed his continued support of the use of medical cannabis as a safe and effective medicine when used appropriately.

Frank Cuny, California Citizens for Health Freedom, stated the Lyme Disease Association asked him to inform the Board they will be presenting a couple of Bills to the legislature because of continued conflict between the conventional approach and what many physicians are doing in the treatment of Lyme disease. Mr. Cuny also asked the Board to review the article in the Wall Street Journal on the "Narcotic Lollipop," which is an appropriate drug for cancer treatment, but is being used for other purposes. He further asked the Board to send a letter of concern to the drug company about the prescriptive drug being marketed and used by physicians for totally inappropriate treatment modalities.

Agenda Item 13 Adjournment

There being no further business, the meeting was adjourned at 10:40 a.m.

A handwritten signature in cursive script, reading "Cesar A. Aristeiguieta, M.D.", written in dark ink on a light background.

Cesar A. Aristeiguieta, M.D.

President

**MEDICAL BOARD OF CALIFORNIA**

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**Division of Licensing
Quarterly Meeting**

**Sheraton Suites
Symphony Bay Room
701 A Street
San Diego, CA 92101**

November 3, 2006

MINUTES

The publicly noticed open session of the Division of Licensing (DOL) was called to order at 8:12 a.m. by Dr. Richard Fantozzi, President. Staff called the roll. A quorum was present.

Members Present:

Richard D. Fantozzi, M.D., President
Laurie Gregg, M.D., Vice President
Hedy Chang, Secretary
James A. Bolton, Ph.D.
Mitchell S. Karlan, M.D.

Member Absent:

Gary Gitnick, M.D.

Staff Present:

Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist, Executive Office
Kurt Heppler, Staff Counsel, Department of Consumer Affairs
Herman Hill, Associate Analyst, Licensing Program
Scott Johnson, Business Services Assistant, Business Services Office
Kim Kirchmeyer, Deputy Director
Kelly Nelson, Analyst, Legislative/Regulatory Unit
Cindi Oseto, Associate Analyst, Licensing Program
Dino Pierini, Business Services Assistant, Business Services Office
Gary Qualset, Chief, Licensing Program
Regina Rao, Analyst, Business Services Office
Paulette Romero, Associate Analyst, Executive Office
Kevin Schunke, Regulation Coordinator, Legislative/Regulatory Unit
Anita Scuri, Supervising Senior Staff Counsel, Department of Consumer Affairs
Pam Thomas, Analyst, Licensing Program
Dave Thornton, Executive Director

Linda Whitney, Chief of Legislation
Curt Worden, Staff Services Manager I, Licensing Program

Members of the Audience:

Robert Puleo, Assistant Deputy Director, Legislative and Regulatory Review Division,
Department of Consumer Affairs (DCA)
Stewart Hsieh, J.D.
Tim Madden, California Society of Plastic Surgeons
Doug Free, California Society of Plastic Surgeons
Faith Gibson, L.M., California College of Midwives
Karen Ehrlich, L.M., Birth Network of Santa Cruz/California College of Midwives
Julie Zamoyski, University of California, Los Angeles, School of Medicine
Mary Elizarrares, University of California, Irvine, School of Medicine
Sandra Bressler, California Medical Association
James Hay, M.D., California Medical Association
Cecilia Melendres, Keck School of Medicine/University of Southern California
Carrie Sparrevohn, L.M., California Association of Midwives
Chris Mank, Center for Public Interest Law, USD

The meeting then went into closed session, with open session reconvening at 9:30 a.m.

Agenda Item 2 Report on Actions Taken in Closed Session

Dr. Fantozzi reported the Application Review Committee met and reviewed five application files. Five applicants were approved to continue in the licensing process.

The Special Programs Committee had no business to conduct and did not convene.

Dr. Fantozzi reported the Full DOL met in closed session and reviewed three Petitions for Penalty Relief and two Proposed Decisions. A Superior Court judgment and pending litigation item were reviewed and discussed.

Agenda Item 3 Approval of Minutes from the July 28, 2006 Meeting

It was M/S/C (Chang/Gregg) to approve the minutes of the July 28, 2006 meeting. The motion carried unanimously.

Agenda Item 4 President's Report

Dr. Fantozzi introduced Mr. Gary Qualset, new Chief of the Licensing Program. Dr. Fantozzi reported on the results of a meeting held in September 2006 with Dr. Wender, Licensing Program staff, and himself to evaluate and streamline the licensing application process while still

maintaining licensing standards. He reported the number of calendar days from receipt to initial review of physician's and surgeon's licensing applications was currently averaging 23 days for U.S./Canadian medical school graduates and 36 days for international medical school graduates, down from 127 and 117, respectively, in February 2006. Staff was commended on a job well done.

Agenda Item 5 Legislation and Pending Regulations

Ms. Whitney presented the following:

A. 2006 Legislation

- ▶ **AB 1796 (Bermudez)** requires an applicant to obtain a passing score on the USMLE, Step 3 examination within four attempts. Ms. Whitney introduced Mr. Robert Puleo, Assistant Deputy Director, Legislative and Regulatory Review Division, DCA, who spoke to issues relating to the Governor's signing message requesting board discretion on the four attempt requirement. Discussion ensued and the following exception options were recommended: a hearing, additional education, a list of specific criteria the physician would have to meet in order to be reconsidered, and referencing reciprocity laws as criteria. Staff was directed to work with DCA and DOL, if necessary, to develop language for board discretion options for presentation at the February 2007 DOL meeting. Staff was further asked if language to exclude "political" exemptions could be added to the legislation.
- ▶ **AB 2260 (Negrete McLeod)** makes amendments to 2111 and 2113 Special Programs and the 2168 Special Faculty Permit Program. Suggestions for regulations were recommended at the Special Programs Work Group meeting on November 1, 2006.

It was M/S/C (Fantozzi/Gregg) to set a regulatory hearing at the February 2007 meeting to implement provisions of AB 2260 for Sections 2111, 2113 Special Programs and the Section 2168 Special Faculty Permit Program regarding: the application form, contents of the application, possible definitions for the term "medical center," who can supervise participants, complaint notification procedures, admission registration documentation, and development of criteria for the review committee structure. The motion carried unanimously.

B. Regulations Update

Ms. Whitney referred to the Status of Pending Regulations chart in the board packet. No additional questions were raised.

C. Proposals for 2007 Legislation

- ▶ **Resident Training License** - would require all individuals seeking postgraduate training in California who are not licensed to apply and obtain a “training license.”

It was M/S/C (Bolton/Chang) to recommend to the Full Board that staff proceed with proposed legislation regarding the resident training license. The motion carried unanimously.

- ▶ **Repeal Specialty Board Review and Recognition Program** - This proposal would repeal the section of law wherein the Medical Board currently reviews applications from non-ABMS boards and makes a determination whether or not to grant recognition as having equivalent requirements to an ABMS board.

Ms. Bressler, California Medical Association (CMA), commented in support of the Medical Board maintaining its current responsibilities.

Discussion ensued regarding the validity/competency of the current program and whether or not there could still be a specific law defining the criteria by which specialty boards could advertise as “board certified” if the Board were removed as a recognizing body.

Tim Madden, California Society of Plastic Surgeons (CSPS), commented in support of the Medical Board maintaining its current responsibilities.

It was M/S/C (Bolton/Chang) to direct staff to explore and present various options that would remove the DOL from its role as an approval body in Specialty Board Review while maintaining its oversight role in providing consumer protection. The motion carried unanimously.

- ▶ **Require, upon application for a license, all documentation related to sexual harassment or sexual misconduct settlements, judgments and convictions.** This Board-sponsored proposal was submitted in 2006 as part of Omnibus legislation, but was later withdrawn due to opposition from the California Dental Association.

It was M/S/C (Gregg/Karlan) to recommend to the Full Board that staff proceed with proposed legislation to obtain information on sexual misconduct. The motion carried unanimously.

Agenda Item 6 Summary of Special Programs Work Group Meeting

Dr. Fantozzi provided a summary of the Special Programs Work Group Meeting held on November 1, 2006. He reported discussion was held on the implementation of AB 2260 and additional regulation ideas were recommended to implement Sections 2111, 2113, 2168 and 2168.1. Ms. Chang was appointed as a public member and Dr. Fantozzi was appointed as a physician member to the Special Programs Review Committee per Section 2168.1 of AB 2260.

**Agenda Item 7 Action to Set Regulatory Hearing to Implement AB 2260 Fees
(Negrete McLeod, Ch. 565, Stat. 2006)**

Mr. Qualset reported staff was asking for approval to set a regulatory hearing relative to identifying the Special Programs initial application and renewal fees authorized by AB 2260.

It was M/S/C (Gregg/Karlan) to set a regulatory hearing at the February 2007 DOL meeting to identify initial application and renewal fees for Special Programs applications as required by AB 2260. The motion carried unanimously.

Agenda Item 8 Reports on Special Programs Site Visits

Ms. Oseto reported all of the California medical schools had been visited during 2006 with the exception of Loma Linda. Staff is working closely with the institutions to identify issues raised, and the site team was pleased with the positive aspects of the site visits and believe the 2111 and 2113 Special Programs are substantially meeting the intended purpose of the programs. She explained a 1327 Special Programs site visit was also conducted at Metropolitan State Hospital, which had been granted temporary approval at the July 2006 DOL meeting pending the site visit. She indicated based upon a successful and satisfactory site visit, staff was recommending permanent approval for the upcoming year.

It was M/S/C (Bolton/Fantozzi) to grant permanent approval of the Section 1327 international student clerkships and international graduate remediation clerkships in psychiatry offered by Metropolitan State Hospital for another year. The motion carried unanimously.

Staff was asked to provide the DOL members a copy of the evaluation criteria documents used for the comprehensive, in-depth Special Programs site visits to be conducted over the next two years.

Agenda Item 9 Proposed Special Programs Site Visit Schedule

Ms. Oseto stated staff had prepared a proposed site visit schedule that will encompass all of the California medical schools over the next two years.

Staff recommended the Special Programs site visit team consist of one regular board member, one additional board member if there is an interest, a medical consultant familiar with medical school processes, and appropriate Board staff. Dr. Bolton was asked to provide input on how previous site visits were conducted, and the members were asked to let staff know if they wished to serve on the site visit team.

Agenda Item 10 Discussion on International Medical School Re-evaluations

Mr. Qualset reported per regulation, site visit re-evaluations of international medical schools previously approved by the DOL can be scheduled in the years 2010 and 2011. He indicated one of the initial processes that could be done early would be to provide the Self-Assessment Report to the appropriate medical schools. Staff was directed to send AUC, Ross University, and St. George's University the Self-Assessment Report so they could begin completing it. Staff was further asked that copies of the Self-Assessment Report be provided to the DOL members.

Agenda Item 11 California Physician Corps Program

Dr. Fantozzi reported the Medical Board had sponsored legislation that transferred the Steven M. Thompson Physician Corps Loan Repayment Program and the Physician Volunteer Program to the Health Professions Education Foundation on July 1, 2006. He stated the Division still needs to be involved in some of the issues relating to the Loan Repayment Program and appointed Dr. Gitnick and himself to serve as the committee given the authority to make decisions related to the repayment program. He added that, since the Physician Volunteer Program will be fully staffed by the Board until resources are available at the Foundation, he appointed Ms. Yaroslavsky and himself to serve as the committee to oversee the volunteer program.

Agenda Item 12 Midwifery Committee Report

Dr. Fantozzi provided a summary of the Midwifery Committee meeting held on November 2, 2006, which included the following staff direction: 1) per SB 1638, devise a coding system for annual reporting by first quarter 2007 and to make Advisory Council recommendations to the Committee at the February 2007 meeting, at which time the Council will be appointed; and 2) to continue working with Ms. Gibson and Ms. Ehrlich on implementation of the retraining program for licensed midwives.

Agenda Item 13 Division Chief's Report

Mr. Qualset highlighted statistics, staff workload information, and achievements within the Licensing Program in the last quarter, applauding the efforts of staff. Staff was directed to continue the process of ongoing improvement within the Licensing Program through periodic staff meetings and to continue providing the fiscal year statistics to DOL members.

Agenda Item 14 Agenda Items for February 2007 Meeting

There was no discussion on agenda items for the February 2007 meeting.

Agenda Item 15 Public Comment on Items Not on the Agenda

Ms. Faith Gibson, L.M., California College of Midwives, spoke to the issue of communication with the Medical Board members. Mr. Qualset was directed to look into the communication process regarding how information from the Licensed Midwives is disseminated to the DOL members to ensure the appropriate communication and information is received.

Agenda Item 16 Adjournment

Dr. Fantozzi adjourned the meeting at 11:20 a.m.



Richard D. Fantozzi, M.D., President



Hedy Chang, Secretary